

EXHIBIT 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4
5

6 PATRICK CALHOUN, et al.,)
7 CHASOM BROWN, et al., on)
behalf of themselves and)
all others similarly)
situuated,)
)
8 Plaintiffs,)
9)
vs.) Case Nos.
10) 4:20-cv-5146- and
11 GOOGLE LLC,) 5:20-cv-05146-
12) YGR-SVK
13 Defendants.)
14)
15

16 *** CONFIDENTIAL ATTORNEYS' EYES ONLY ***
17
18

19 REMOTE VIDEO DEPOSITION OF
20 SABINE BORSAY - VOLUME II
21
22
23

24 DATE TAKEN: JUNE 30, 2022
25 REPORTED BY: RENEE HARRIS, CSR 14168, CCR, RPR
JOB NO. 5268903
PAGES: 173 - 350

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

*** CONFIDENTIAL ATTORNEYS' EYES ONLY ***

Remote Video Deposition of SABINE BORSAY,
Volume II, taken in Zurich, Switzerland and Zoom
Conference Video, commencing at 1:02 p.m., CEST,
Thursday, June 30, 2022, before Renee Harris,
CSR No. 14168, Registered Professional Reporter.

1 APPEARANCES OF COUNSEL:

2 For CALHOUN PLAINTIFFS:

3 BLEICHMAR FONTI & AULD LLP

4 BY: ANGELICA M. ORNELAS, ESQ.

5 555 12th Street, Suite 1600

6 Oakland, California 94607

7 (415) 445-4003

8 aornelas@bfalaw.com

9

10 For BROWN PLAINTIFFS:

11 BOIES SCHILLER & FLEXNER LLP

12 BY: JAMES LEE, ESQ.

13 AUGUSTO CIVIDINI, ESQ.

14 100 SE Second Street, Suite 2800

15 Miami, Florida 33131

16 (305) 357 8434

17 jlee@bsfllp.com

18 acividini@bsfllp.com

19 -and-

20 BY: MARK MAO, ESQ.

21 44 Montgomery Street, 41st Floor,

22 San Francisco, California 94104

23 (415) 293-6800

24 mmao@bsfllp.com

25 (Attending remotely)

1 APPEARANCES OF COUNSEL: (CONTINUED)

2 For DEFENDANT:

3 QUINN EMANUEL URQUHART & SULLIVAN LLP

4 BY: JOMAIRE CRAWFORD, ESQ.

5 CARL SPILLY, ESQ.

6 51 Madison Avenue, 22nd Floor

7 New York, New York 10010

8 (212) 849-7000

9 jomairecrawford@quinnemanuel.com

10 carlspilly@quinnemanuel.com

11
12 QUINN EMANUEL URQUHART & SULLIVAN (Schweiz)

13 GmbH

14 BY: REMO DECURTINS, ASSOC.

15 Dufourstrasse 29

16 8008 Zürich

17 Switzerland

18 (+41) 44 253 8014

19 remodecourtins@quinnemanuel.swiss

20
21 ALSO PRESENT:

22 David West, Videographer (remotely)

23 Matthew Gubiotti, Google

1	INDEX		
2	EXAMINATION BY:	PAGE	
3	MR. LEE	183	
4			
5			
6			
7			
8			
9	EXHIBITS		
10	EXHIBIT NO.	DESCRIPTION	PAGE
11	Exhibit 1	- Bates GOOG-CABR-00352924	188
12	Exhibit 2	- Bates GOOG-CABR-05468324	197
13	Exhibit 3	- Bates GOOG-BRWN-00437645	209
14	Exhibit 3A	- Screenshot	245
15	Exhibit 4	- Bates GOOG-BRWN-00391825	223
16	Exhibit 5	- Bates GOOG-BRWN-00391231	234
17	Exhibit 6	- Bates GOOG-BRWN-00410878	256
18	Exhibit 7	- Bates GOOG-CABR-04971904	275
19	Exhibit 8	- Bates GOOG-BRWN-00275959	287
20	Exhibit 9	- Bates GOOG-BRWN-00047341	293
21	Exhibit 10	- Bates GOOG-CABR-04509467	301
22	Exhibit 11	- Bates GOOG-CABR-04746153	309
23			
24			
25			

1 EXHIBITS (continued)
2

3 EXHIBITS MARKED BUT NOT IDENTIFIED
4

5 Exhibit 12 - Bates GOOG-CABR-05287675
6

7 Exhibit 13 - Bates GOOG-BRWN-00185344
8

9 Exhibit 14 - Bates GOOG-BRWN-00165706
10

11 Exhibit 15 - Bates GOOG-CABR-051455132
12

13 Exhibit 16 - Bates GOOG-CABR-05270219
14

15 Exhibit 17 - Bates GOOG-CALH-00044423
16

17
18
19
20
21
22
23
24
25

1 the findings in Exhibit 2 that Incognito users had
2 various misconceptions about Incognito Mode which
3 could put their privacy in jeopardy?

4 MS. CRAWFORD: Argumentative. Assumes
5 facts. Lack of foundation. 01:33:18

6 THE WITNESS: So again, I'm not aware of
7 who this is talking about nor what was said
8 or not said.

9 But let me just read that sentence one
10 more time -- sorry, just let me look at it 01:33:28
11 here.

12 MS. CRAWFORD: Yeah, you should always
13 look.

14 THE WITNESS: So even that sentence
15 doesn't talk about whether this research was 01:33:49
16 presented as you framed it.

17 BY MR. LEE:

18 Q. Yeah, I'm not saying what's in the
19 document. I'm asking for your personal knowledge.

20 Do you know, as the product manager for 01:34:00
21 Chrome Privacy, if the mystery man named Sundar
22 was informed in 2015 of the finding in this
23 document that Incognito users had various
24 misconceptions about Incognito Mode which could
25 put their privacy at risk? 01:34:16

1 A. So again, I do not know. But I can add
2 that I would be extremely surprised if the
3 findings of this super-long-looking research would
4 have been shared with, let's say, if you are, you
5 know, looking for Sundar Pichai, I would be very 01:34:34
6 surprised about that.

7 MR. LEE: Okay. Let's look at the next
8 document, Augusto.

9 MS. CRAWFORD: And, Augusto, just let us
10 know when it's been published. 01:34:58

11 MR. CIVIDINI: Been published.

12 MS. CRAWFORD: Thank you.

13 MR. LEE: We're going to mark this. Let
14 me identify. The beginning Bates is
15 GOOG-BRWN-00437645, and it will be marked for 01:35:12
16 this deposition as Exhibit 3.

17 (Exhibit 3 was received and marked
18 for identification on this date and is
19 attached hereto.)

20 BY MR. LEE: 01:35:24

21 Q. You worked on the Chrome Incognito Mode
22 rebranding effort in 2015, Mrs. Borsay, right?

23 A. I'm not sure what you are referring with
24 Incognito rebranding effort from 2015.

25 Q. Did you work on any effort to rebrand 01:35:37

1 Incognito Mode in 2015?

2 A. Well, effort, I'm not sure if that's the
3 right word. At some point we did explore with the
4 team what rebrand could potentially look like.

5 Q. Okay. Now, why don't you turn to the 01:35:55
6 last page of the document.

7 A. Give me a moment, please.

8 Q. While you're heading there, I'll just
9 state for the record this is the metadata provided
10 by Google in producing this document. 01:36:39

11 A. Okay.

12 Q. Do you see the title of the document at
13 the very bottom is "Chrome Incognito Mode
14 rebranding"?

15 A. Mm-hmm. 01:37:28

16 Q. And do you see the field titled
17 "Custodian/Source"?

18 A. Yes, I do.

19 Q. Okay. And whose -- whose name is listed
20 there? 01:37:40

21 A. It's mine.

22 Q. Okay. And do you see, just under that,
23 it says "AllCustodians"?

24 A. Yes.

25 Q. And who is the only name listed there? 01:37:48

1
2
3
4 I, RENEE HARRIS, do hereby certify that I
5 am a licensed Certified Shorthand Reporter;

6 That prior to being examined, the witness named
7 in the foregoing deposition was by me duly sworn
8 to testify to tell the truth, the whole truth, and
9 nothing but the truth;

10 That the said deposition was by me recorded
11 stenographically;

12 And the foregoing pages constitute a full,
13 true, complete and correct record of the testimony
14 given by the said witness;

15 That I am a disinterested person, not
16 being in any way interested in the outcome of said
17 action, or connected with, nor related to any of
18 the parties in said action, or to their respective
19 counsel, in any manner whatsoever.

20
21 Date: July 7, 2022

22
23 

24 Renee Harris, CSR, CCR, RPR
25 CA CSR No. 14168,
NJ CRR No. 30XI00241200; RPR